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EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

June 11, 1984

**SPECIAL**

LEGISLATIVE REFERRAL MEMORANDUM

TO: LEGISLATIVE LIAISON OFFICER

Department of Justice - Jack Perkins (633-2113)  
Department of Defense - Werner Windus (697-1305)  
Central Intelligence Agency ✓  
National Security Council  
Department of the Treasury - Carole Toth (566-8523)

SUBJECT: Draft GSA testimony on S. 2669, a bill "To prohibit Government employees from secretly taping conversations with others."

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please provide us with your views no later than 10:00 A.M. Tuesday, June 12, 1984. (NOTE: A hearing is scheduled for 6/13/84).

Direct your questions to Branden Blum (395-3802), the legislative attorney in this office.

*Handwritten signature of James C. Murr*  
James C. Murr for  
Assistant Director for  
Legislative Reference

Enclosure

cc: A. Curtis  
F. Reeder

M.A. Chaffee  
F. Fielding

A. Donahue  
C. Evangel

C. Wirtz

S. 2669 - GSA

STATEMENT OF  
FRANK CARR  
ASSISTANT ADMINISTRATOR, OFFICE OF  
INFORMATION RESOURCES MANAGEMENT  
GENERAL SERVICES ADMINISTRATION  
BEFORE THE  
SUBCOMMITTEE ON CRIMINAL LAW  
SENATE JUDICIARY COMMITTEE  
June 13, 1984

Mr. Chairman and members of the Subcommittee, I wish to express my appreciation for the opportunity to testify today on S. 2669, a bill to prohibit Government employees from secretly taping conversations with others.

The Federal Telecommunications System (FTS) is under the control and management of the General Services Administration (GSA). Within GSA, these authorities and responsibilities have been delegated to the Office of Information Resources Management. The FTS is the primary system for use by Federal employees in the conduct of Federal government business and includes both the intercity voice network and the consolidated local telephone service. Except for specified exceptions, listening-in or recording conversations on the FTS is prohibited by GSA regulations (41 CFR 201-37.311; formerly 41 CFR 101-37.311).

The regulations permit non consensual monitoring of telephone conversations only when authorized and handled in accordance with the requirements of the Omnibus Crime Control and Safe Streets Act of 1968 and the Foreign Intelligence Surveillance Act of 1978. With respect to listening-in or recording of conversations in cases where one party has consented to the interception, exceptions to the general prohibition include, in addition to interceptions for law enforcement and counterintelligence purposes, monitoring (1) for public safety purposes, (2) to allow a handicapped employee to perform official duties, (3) to monitor the quality of agency service, or (4) with the consent of all parties to the conversation. Each of the exceptions contains limitations to ensure that monitoring is allowed only when absolutely necessary.

S. 2669 would amend Title 18, United States Code, by adding a new section covering the interception of Federal employees telephone conversations. The bill, with limited law enforcement and intelligence exceptions, prohibits the secret interception by Federal employees of any conversation to which the employee is a party. The bill makes such an interception a criminal offense by the Federal employee with a penalty of a \$1000 fine, six months imprisonment or both.

We are concerned that the bill does not clearly provide for the legitimate needs of Federal agencies for limited listening-in or recording of conversations. While the bill provides that the Attorney General will issue guidelines and regulations permitting interceptions, it is not clear whether these regulations and guidelines will cover law enforcement type activities generally under the Attorney General's purview or will also encompass the mission related activities of those agencies which have legitimate needs for monitoring conversations.

GSA's regulations were structured to provide for exceptions to the general prohibition on listening-in or recording whenever the agency head or his designee determines that the legitimate needs of the agency required the conversation to be monitored. Our experience indicates that the exceptions mentioned before are essential for the agency's proper functioning. If neither this bill nor the Attorney General's guidelines and regulations are extended to cover legitimate agency missions, this bill will prevent agency employees from effectively carrying out their responsibilities.

We would like to point out that the proposed bill, although an amendment to the Omnibus Crime Control and Safe Street Act, is applicable only to Federal employees. The statute extends to all persons, not just government officials and employees. This

raises the question of why are we limiting this proposal to only Federal employees when the statute prohibits secret interceptions of communications by any person.

This concludes my prepared statement, Mr. Chairman. I would be glad to respond to questions you or other members of the Subcommittee may have.

RECORD OF ORAL RESPONSE

BILLS AND LEGISLATIVE REFERRALS

Date: 1/2/84

Office: OMB

Person: Branden Sh

Subject: Telecommunication Bill

Bill No.: S. 2669

Comment: We had no objection except  
~~for~~ for GSA characterization  
of monitoring regulations where  
we requested that GSA  
state that ~~the~~ the intelligence  
community is exempt from  
the regulations.